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Remarks

Claims 1-21 are pending, and all were rejected. Claim 15 is amended in lines 13 and 23 to overcome an informality, as assumed by the Examiner for purposes of examination. No change in scope of the invention as claimed is intended by such amendments.

Claims 1-5, 7-12, 14-18, 20 and 21 were rejected under 35 USC§102(b) as anticipated by US 4,771,137 (Thompson). Claims 6, 13 and 19 were rejected under 35 USC §103(a) as obvious over Thompson in view of US 3,684,247 (Oltmanns).

In response, independent claims 1, 8, 15, and 21 are amended above to positively recite the lateral retainers and tabs as separate structural elements of the claimed invention. See the lower left portion of application Figure 1 (illustrating lateral retainer 20 and tab 28) and the specification as filed at page 4, lines 10-20 (paragraph [0016] as published) for support for the amendments.

This positive limitation to two distinct structural elements is not disclosed or suggested in Thompson. Thompson teaches that "arcuate sockets 54 ... are configured to resiliently receive the arms 56 of the "T" type post" (column 3, lines 34-36), and that such sockets are defined by unnumbered "laterally spaced feet" (column 2, line 68 to column 1, line 1). In the invention, slots 22, 26 receive cross-arms C1 and C2 and are defined by lateral retainers 18, 20. What is not present in Thompson is the additional structural element required by the invention, namely tabs 24, 28. It would not be proper to read Thompson as disclosing tabs 24, 28 in the form of his "outwardly spaced sections 16 and 18" (column 32, lines 1-2) as those elements are clearly components of the unnumbered feet and not separate structural elements as required by the amended claims.

The importance of the two distinct structural elements to the operation of the invention is appreciated from the manner in which the invention is applied to the T-post. The specification specifically teaches that "during installation or removal of the bracket 10 from the post P, a user applies force, by hand, *to the tabs 24, 28 ... [which] moves the lateral retainers outwardly ... thus opening the slots 22, 26 ...*" (specification as-filed page 5, lines 1-5; as-published paragraph [0020], *emphasis added*). By contrast,

Thompson explicitly teaches only that “in installations involving the “T” type posts illustrated in FIGS. 4 and 5, the bracket is simply fitted on top of the post and slid downward into place where it is held in frictional engagement.” (Column 3, lines 58-61.) Absent impermissible hindsight, there is simply no disclosure or suggestion of using tabs (or any other feature) to apply leverage to any portion of the support bracket, much less to open the arcuate sockets 54 of Thompson, during application of the support bracket to the T-post. While Thompson does off-handedly refer to his arcuate sockets 54 as being “configured to resiliently receive the arms 56 of the “T” type fence post,” (column 3, lines 34-36), this does not clearly disclose or suggest this aspect of the invention. It is unclear, for example, whether Thompson’s “resilience” refers to the ability of the inner surfaces of the sockets to flexibly grip the T-post, not the ability of the bracket as a whole to open in response to user-applied leverage. The person of ordinary skill would expect that, if Thompson possessed knowledge that his bracket was flexible in any manner, he would not have found it necessary to disclose only application of the bracket to the T-post by the top-fitting and downward-sliding method quoted above.

In summary, the only fair reading of Thompson by the person of ordinary skill in the art is that Thompson does not disclose or suggest separate tabs and lateral retainers, or the functions they perform, as those terms are used in the amended claims. Against this detailed discussion of the form, fit and function of the support bracket of Thompson, any attempt to read Thompson on the amended independent claims would be without any disclosure, teaching, suggestion or motivation to do so. Oltmanns does not make up any of these differences between Thompson and the invention, as Oltmanns fails to teach a support bracket having the claimed structural features at all. Thus, claims 1, 8, 15, and 21 as amended are each allowable when compared to Thompson, either alone or in combination with Oltmanns. The other remaining claims respectively depend upon one of these independent claims, and therefore should be allowable for the same reasons.

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Conclusion

Please enter the amendments above and reconsider the application. If you have any questions, please contact me at your convenience.

Very truly yours,



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